

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,

v.

Criminal No. 2:23cr20

DAHNICO JHARON MCCOY, et al.

Defendants.

DEFENDANT'S POSITION WITH RESPECT TO
SPEEDY TRIAL ACT

COMES NOW, Defendant, Dahnico Jharon McCoy, by counsel, and hereby submits this position with respect to the Speedy Trial Act of 1974, 18 U.S.C. §§ 3161, *et seq.* and the superseding indictment as ordered by the Court on April 6, 2023. ECF No. 26. For the reasons set forth below, Mr. McCoy submits that the ends of justice would best be served by conducting one trial on all charges contained in the superseding indictment beyond the trial date set forth in Count One of the original indictment.

BACKGROUND

On December 19, 2022, Mr. McCoy was charged in a single-count criminal complaint with Theft of Mail, in violation of 18 U.S.C. § 1708. In January 2023, Mr. McCoy agreed to toll the 30-day Speedy Trial clock in which they needed to be indicted from January 18, 2023 to February 18, 2023. ECF Nos. 11, 12. On February 8, 2023, Mr. McCoy was charged in a single-count indictment with Theft of Mail, in violation

of 18 U.S.C. § 1708. ECF No. 13. Mr. McCoy was subsequently arraigned on February 16, 2023 and during status conference held on February 23, 2023 the trial date was set for April 24, 2023, which was within the 70-day Speedy Trial Act deadline. On April 5, 2023, a grand jury sitting in the Norfolk Division, returned a superseding indictment against Mr. McCoy and his co-defendant alleging for new additional charges. ECF No. 23. Specifically, the additional charges include Conspiracy to Commit Bank Fraud, in violation of 18 U.S.C. § 1349, Bank Fraud, in violation of 18 U.S.C. § 1344, and Aggravated Identity Theft, in violation of 18 U.S.C. § 1028A. On April 6, 2023, the Court entered an order advising that the defendants' Speedy Trial Act rights may be implicated as to Count One of the original indictment and ordered that the parties submit their position concerning those rights.

Legal Standard

The Speedy Trial Act of 1974, 18 U.S.C. §§ 3161, *et seq.* (the "Act"), governs the time allowed between indictment or initial appearance and a trial of the defendant. The Act provides that, when a defendant enters a plea of not guilty, trial shall commence "within seventy days from the filing date (and making public) of the information or indictment or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever occurs last." 18 U.S.C. § 3161(c)(1). A defendant may not unilaterally waive the application of the Act. *Zedner v. United States*, 547 U.S. 489, 500, 126 S. Ct. 1976, 164 L.Ed. 2d 749 (2006). The public and the defendant jointly share an interest in a speedy trial. *See id.* at 500-02, 126 S.Ct. 1976. A superseding indictment that adds new charges or

new defendants when the investigation is ongoing and continuing from the date of the original indictment restarts the speedy trial clock. *United States v. Lesczynski*, 86 F. App'x 551, 554 (4th Cir. 2004).

Argument

It is Mr. McCoy's position that all counts in the superseding indictment must be tried together prior to the new speedy trial deadline of July 13, 2023, and that doing so satisfies the ends of justice, is not prejudicial to either party, and promotes judicial economy. Further, the undersigned counsel will require additional time to research, investigate, and explore any appropriate defenses to the additional charges.

CONCLUSION

Mr. McCoy respectfully submits that the ends of justice require proceeding to one trial on all charges contained in the Superseding Indictment outside of the speedy trial deadline set forth in the original indictment.

Respectfully submitted,

Dahnico Jharon McCoy

_____/s/_____
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